

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	8:08CR319
)	
MARCUS BROWN,)	ORDER
)	
Defendant.)	

This matter is before the court on the defendant's motion to continue trial (Doc. [26](#)). Based on counsel's representation that he will be out of the state on military orders on the scheduled trial date, trial will be continued to December 2, 2008.

IT IS ORDERED that the motion (Doc. [26](#)) is granted, as follows:

1. The jury trial now set for November 4, 2008, is continued to **Tuesday, December 2, 2008**.

2. In accordance with [18 U.S.C. § 3161\(h\)\(8\)\(A\)](#), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **November 4, 2008, 2008 and December 2, 2008**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act due to defense counsel's scheduling conflict and because counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

3. Defendant shall file an affidavit or declaration regarding speedy trial, as required by [NECrimR 12.1 and/or 12.3](#), no later than **November 4, 2008**.

DATED October 27, 2008.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge